

MINUTES

P & Z COMMISSION HEARING February 19, 2004

ATTENDANCE P & Z Commissioners

ATTENDED

1. Wendell DeCross, Vice Chairman
2. Frank Damato
3. Micah Lomaomvaya
4. Bob Bailey
5. Roy Solomon
6. Drew Shumway

ABSENT

John Dalton
Tommy Joe
Gary Nelson

Staff Attendance

1. David Ashton, Director of Development Services
2. Lissa Davis, Planner II
3. Lance Payette, Deputy County Attorney
4. Richard Young, Deputy Director of Public Works
5. Mary Bradley, Secretary

Meeting held at the Board of Supervisors Chambers, Holbrook, Arizona - Time 6:00 p.m.

Wendell DeCross called the meeting of the Navajo County Planning & Zoning Commission to order, and explained the meeting procedures to the public. Mr. DeCross explained that they would start with item numbers two on the agenda and then proceed to item number one. Mr. DeCross then led the Pledge of Allegiance.

Item # 2 **Special Use Permit:** Discussion and possible Commission action on a request by **Gary and Janice Bunger** to allow a Mini-Storage facility on the north half of the subject property, APN: 209-20-011 in Township 10 North, Range 21 East, Section 4 of the Gila and Salt River meridian, the Linden area. **Lissa Davis** gave a history of the project and presented maps showing the general area and the preliminary site plan. In 2002, the Board of Supervisors approved a request by this applicant to rezone the front 600 feet from A-General to Commercial-Residential. The applicant is now asking for a Special Use Permit for a mini-storage facility on the rear portion of approximately 609 feet deep. Staff had not received any letters in favor or opposition on this request. Staff recommends approval with stipulations. **Richard Young** said that the access must be a recorded easement and strongly recommend that Pearce Road be paved. Mr. Young said that this type of access needs to be a public road, as opposed to a specific property access. **Gary Bunger** is the applicant and he was in attendance. Mr. Bunger said that they are in the overseas container rental business. Mr. Bunger indicated that the mini storage business is compatible with their business. Mr. Bunger said that there is an entrance on ADOT Highway 260 (showed on the map the entrance) and this would be their main entrance instead of Pearce Road. They received approval from the Highway Department in reference to the access. Mr. Bunger indicated the Mr. Pearce does not want to deed this easement over to the county and does not want to make it into a public road. Mr. Bunger requested that stipulation number 11 be changed to a 24-month time period. **No one came forward to speak in favor or opposition regarding this matter.** **Frank Damato** asked if the main entrance on Highway 260 would be paved. Mr. Damato expressed concern with the amount of traffic that this road would generate. **Gary Bunger** said that they were hoping that they would not have to pave it, and that Pearce Road would be used as a fire entrance. Mr. Bunger referred to a meeting he attended at the National Association of Mini Storage and they indicated that the car usage would be about 40 cars a month. **Frank Damato** asked that even though they can't get a recorded easement from Mr. Pearce are they still able to use Pearce Road. **Gary Bunger** replied yes, and that Mr. Pearce does not want to give a written easement onto a private road because that would give them a legal point into making it a county road. A motion was made by **Drew Shumway** to approve the Special Use Permit with the stipulations stated by staff.

RECOMMENDED STIPULATIONS: 1. *Prior to the issuance of any building permits, an engineered site plan, including a drainage plan shall be submitted to, and approved by, the County.* 2. *Signs are to conform to the Navajo County Sign Ordinance.* 3. *Signs must be posted within the facility prohibiting the storage of hazardous and flammable materials.* 4. *Property must be fenced and screened.* 5. *Security gating and/or on-site management must be provided.* 6. *Width between units to be a minimum of 25-feet.* 7. *Rolling stock are to be stored in a screened area*

8. A 20' landscape buffer along the east and north sides shall be provided. 9. Label septic system primary area and show reserve area on the engineered site plan. 10. The buildings and structures shall utilize earth tone colors. 11. All stipulations shall be met within a twenty-four-month period following Board of Supervisors approval. Failure to do so will result in review by the Board for possible revocation of the Special Use Permit. **Bob Bailey** seconded the motion. Motion unanimously carried.

Item # 2 **Special Use Permit:** Discussion and possible Commission action on a request by **Mary Petersen** to allow the construction of a cellular communications tower on a portion of the subject property, APN: 208-19-001E in Township 11 North, Range 19 East, Section 24 of the Gila and Salt River meridian, the Pinedale area. **Lissa Davis** gave a history of the project and presented maps showing the general area and the site plan. Ms. Davis references some concerns that they had received. The Planning & Zoning Commission recommended approval for this Special Use Permit on November 20, 2003 with a unanimous vote of approval. On January 5, 2004 we presented this to the Board of Supervisors and they remanded this back to the Planning & Zoning Commission for further consideration. **1.** A concern that was brought up was that the property had not been properly noticed. Ms. Davis said that she personally went out with the Chief Building Inspector and posted it on several locations, noticed it in the newspaper and mailed out noticing letters in conjunction with this hearing. **2.** In regards to the tower height Ms. Davis refers to Section 2508 (2) of the Navajo County Zoning Ordinance and indicates that anyone can construct an item listed up to 100 feet. The county chooses to require a Special Use Permit for wireless towers, regardless of height or zoning districts. **3.** Regarding the issue on liability it is the applicant's and not the County's responsibility. **4.** In regards to a permit being issued before FAA approval Ms. Davis indicated that code requires FAA approval and we include a stipulation to this effect before the building permit is issued. **5.** The requirements for this Special Use Permit are a Special Use Permit application be notarized; engineered site plan, letter of intent, recorded deed or sales lease agreement. **6.** A concern was given as to why wasn't the tower placed on Forest Service property. Per a conversation with Ms. Joan Beno from United States Forest Service (Lakeside Ranger District) their policy is to not consider a lease unless all avenues pertaining to private land (commercial or residential) are looked at. **7.** In regards to testing for potential hazard to wildlife, effects on property values, effect on emergency or police frequencies and problems with antenna farms these are not things we deal with. Staff recommends approval with stipulations. **Lance Payette** clarified the issue regarding proper noticing given at the last commission hearing. Mr. Payette said that should not take into account what took place at the last hearing, and they are basically are starting a new hearing. Mr. Payette referred to a memo that was sent to the commissioners. In the memo was referenced the Federal Telecommunication Act of 1996. Mr. Payette said if we do deny this application we are required to have substantial evidence for the denial and to make a written finding for the basis of our denial, and the applicant is favored under the law and can appeal. **Carl Wibel** is the Project Coordinator for Cellular One and they are leasing the site from the applicant. Mr. Wibel indicated that a petition with 82 signatures was dropped off at his office in support of this project. Mr. Wibel addressed the concerns from a letter from Scott Bailey. **1.** Regarding the concern on local wildlife they are required to do a Phase 1 environmental study. This was completed in November of 2003 and was done by Terra Con Incorporated, which is a licensed firm out of Tempe, Arizona. The firm identified no recognizable environmental issues that would require any additional investigation at this time. **2.** In regards to Federal land, back in April 2003 they did look at this, research was done. In a meeting with the Forest Service Personnel Regional Office in Albuquerque, they indicated that to facilitate any type of tower or communication facility on Forest Service land then everything must be exhausted. Their engineering crew did extensive RSK to find the best location for in building coverage and coverage on the highway. **3.** There was concern that this would be antenna farm. All towers are required to apply for a Special Use Permit. Having existing verticality at many places is a requirement that you must use existing tower space versus building new towers. If this would be in place this could possibly avoid other towers in the area, so that when they build they would have to use other existing verticality in the area. **4.** Another concern was if this was approved by the FCC & the FAA. Once they receive the local County approval for construction they will file with the FAA. They have not filed yet without them getting permission from any type of construction. They will not file with the FAA for a proposed possible construction, but once this is done they will file and the filing takes approximately 2-weeks. The FCC, they do require wireless towers be actually filed, and filed on as working within one year after they are placed in service. They file on theirs within one month of the service being turned on. **5.** A concern was on the site plan. They have filed a complete set of instructions drawings along with a packet on October 2003. **6.** The issue of safety. They secure all of their sites and supply liability insurance. **7.** Another question was why couldn't they get the Pinedale Fire Department to dismantle their antenna that they built and build their own antenna. Mr. Wibel indicated that he spoke to Walter Hedges who sits on the Pinedale Fire Board and he said that they have constructed the repeater tower and there was nothing at this point in time for them to tear down the tower and move it. **8.** A question was brought up are they going to interfere with existing emergency services. This was researched back in April, May and June of 2003. Rim Country, which does all the work for radio services for Pinedale Fire Department, said that there would be absolutely no interferences for emergency services. **Wendell DeCross** presented the ground rules to the public and requested a 2-minute time limit for each person speaking. **James Mang** spoke in favor of the project and said that he lives a quarter mile South of Highway 260. Mr. Mang indicated that they need better cellular reception and

service. **Dora Perkins** lives in Show Low and spoke in favor of the project. Ms. Perkins indicated that she also owns a business in Show Low which requires the use of cell phones and is unable to contact their drivers because of there being none to poor reception in the Pinedale area and would like to see better cellular access for their drivers. Another concern was lack of cellular service in case of emergency. **Mickie Oliver** spoke in opposition and indicated that she lives a quarter mile from the tower site. Ms. Oliver is opposed to the location of the tower and indicates that it sits in a hole. Ms. Oliver had some concerns about them changing the venue to site specific and the noticing process. Ms. Oliver indicated that she would like to see some type of written document from Cellular One showing other locations that they tried to place this tower at. It was said that the site plan was submitted in October 2003 and when they were here in November 2003 that was not valid because it did not meet the 180' drop zone. **Alan Oliver Jr.** spoke in opposition and indicated that he is opposed to the location of the tower. Mr. Oliver said that the commission approved the project knowing that the site map was inaccurate and expressed disapproval with the notification process and that no documentation was given to support the location of the site.

Rod Enders indicated that he does not live in the Linden area but lives in the Heber/Overgaard area. Mr. Enders spoke in support of the people in Pinedale who were voicing their displeasure regarding the location of this tower. Mr. Enders said that he vis ited with some property owners and they indicated that they have concerns with the view. Mr. Enders asked if any other property owners were approached to place the tower on their property. **Scott Bailey** said that he owns parcel 018B, which is next to the subject parcel. Mr. Bailey expressed displeasure with the 2-minute time frame and the notification process. Mr. Bailey refers to comments from Chairman John Dalton on noticing, usage of property and aesthetics from the Planning & Zoning Meeting on November 2003. Mr. Bailey indicated that the vast majority of cell towers exceed the 100' limit per the Navajo County Zoning Ordinance. In the ordinance it prohibits antennas from being built from over 100' and they will also find that it states that cellular towers are not on the list of things which one would expect to be put on a residential neighborhood, which is, zoned A-General. On November 19, 2003 a letter was sent to Development Services Department and follow up letter with more questions on January 4, 2004 and those questions had not been adequately answered. Mr. Bailey refers to the Navajo County Zoning Ordinance Article 20, Section 2002, Item number 1& 2. He asked how can an incomplete and erroneous site plan can be brought to this hearing if prior to the hearing it was supposed to be given to the Board of Supervisors and then brought back to the Commission. **Ken Baker** spoke in opposition and resides about a quarter mile from the tower. Mr. Baker indicated that he is opposed to this because of various health concerns and the visual location.

Kimberly Burd spoke in opposition and asked why they couldn't place their equipment on one of the existing 2 towers (Pinedale Fire Department Tower and a Hamm Operated Tower). **Carl Wibel** addressed the comment in reference to the site plan by saying that the site plan was not revised but the survey was revised as a request by staff. Regarding the Pinedale Fire Department tower, due to the structure of the tower it would not be structurally sound for holding their antennas it was made for holding a smaller antenna. In regards to the Hamm Radio Tower this has less capability of holding as a guide tower and this has been maximized out for any structural use. The question on someone offering them an alternative site, they have not received any calls from any one in that area offering their property. **Lance Payette** commented that the critical thing in a zoning matter is the noticing and this is why it was brought back to the Planning and Zoning Commission. Mr. Payette indicated that the Department took a conservative approach to noticing and as of now they had two hearings. The documents were submitted to the Development Services Department as the agent for the Board of Supervisors and these documents are public records. Mr. Payette addressed the comment about our ordinance requiring prior approval by the FAA. Mr. Payette indicated that if there is a stipulation saying that the permit would not be effective until Federal approval is obtained, this is what we have and there is very little question that this is substantial compliance with this ordinance. It makes more practical sense to do it this sequence than to require the applicant to go to the Federal Agency prior to approval.

A motion was made by **Frank Damato** to approve the Special Use Permit with the stipulations stated by staff. ***RECOMMENDED STIPULATIONS: 1. This Special Use Permit shall permit a wireless communication tower, 180 feet in height, on the subject property. 2. The permitted Special Use shall be allowed to occur only in the location shown on the approved site plan. 3. This Special Use Permit shall run with the land. 4. The approval of the Special Use Permit is contingent upon successful review of the structural details of the subject tower and that a building permit for such tower is issued. 5. The applicant must meet all State and Federal requirements concerning communication towers prior to any building permits being issued. 6. If the tower is no longer being utilized, the owner shall cause at his expense the removal of all components of this tower within a 90-day period. 7. The leased area around the ground equipment shall be enclosed with a 6-foot high fence.*** **Drew Shumway** seconded the motion. Motion unanimously carried.

Item # 3 Tentative Plat: Discussion and possible Commission action on a request by **Canyon Vista Properties, L.L.C.** for approval of the Master Plan and Tentative Plat for the **Canyon Vista Estates Subdivision**, located on APN: 204-08-012, T12N – R22E - Section 31 of the Gila and Salt River Meridian, in the Shumway area, Navajo County, Arizona.
TABLED.

Item # 4: Election of Chair and Vice Chair for 2004. A motion was made by **Frank Damato** to re-elect John Dalton as chairman. **Bob Bailey** seconded the motion. A motion was made by **Drew Shumway** to close the nominations. **Bob**

Bailey seconded the motion. Motion unanimously carried to close nominations. Motion unanimously carried to have John Dalton to serve as chairman. A motion was made by **Frank Damato** to re-elect Wendell DeCross as Vice Chairman. **Drew Shumway** seconded the motion. A motion was made by **Bob Bailey** to close the nominations. **Roy Solomon** seconded the motion. Motion unanimously carried to close nominations. Motion unanimously carried to have Wendell DeCross to serve as Vice-chairman.

Item # 5: **Possible approval of January 15, 2004 Minutes.** A motion was by **Frank Damato** to approve the minutes. **Bob Bailey** seconded the motion. Motion unanimously carried.

Item #6: Commissioners' comments and/or directions to staff. Commissioners may use this time to offer additional comments regarding any item on this agenda or any other topic; and the Commission may direct Development Services Department staff to study or provide additional information on topics of the Commissions' choosing. The commission and staff discussed concerns about the adequacy of the noticing for the Petersen's case.

A motion was made at 7:42 p.m. by Drew Shumway to adjourn to executive session for legal advice regarding the Petersen's Special Use Permit. Roy Solomon seconded the motion. Motion unanimously carried. A motion was made at 8:05 p.m. by Frank Damatoto to re-adjourn back from executive session. Bob Bailey seconded the motion. Motion unanimously carried.

Item #6 continued: Commissioners' comments and/or directions to staff. **Richard Young** requested guidance from the commission on curb and gutters from the Navajo County Subdivision Regulations. The commission suggested that the Navajo County Zoning Ordinance should be updated one section at a time. **Roy Solomon** suggested that since Mojave County Zoning Ordinance was revised they should possibly look at theirs and use what pertains to us and make changes on the rest one section at a time. All the commission agreed that the whole Zoning Ordinance should be look at and revised.

With there being no further business to come before the Planning and Zoning Commission, the meeting was adjourned at 8:45 p.m. **Bob Bailey** made a motion to adjourn. **Roy Solomon** seconded the motion. Motion unanimously carried.

NOTE: a copy of the agenda background material provided to the Commission Members (with exception of material relating to possible executive sessions) is available for public inspection at the Development Services Office, Navajo County Complex, Holbrook, Arizona, Monday through Friday, 8:00 a.m. to 5:00 p.m.

Approved this _____ day of _____, _____.

Chairman, Navajo County
Planning & Zoning Commission

ATTEST:

Secretary, Navajo County
Development Services